

Interim Report of Royalty in Kind (RIK) Subcommittee

**Royalty Policy Committee Meeting
September 18, 2008**

A stylized silhouette of a mountain range in a teal color, located at the bottom right of the slide.

Report to the Royalty Policy Committee
“Mineral Revenue Collection from Federal and Indian Lands and the
Outer Continental Shelf”

Near Term Recommendations

- ◆ **Recommendation 6-1**: MMS should establish an RIK Subcommittee to the Royalty Policy Committee (RPC). Issues that should be addressed include performance benchmarks, volume verification and market positioning.
- ◆ **Recommendation 6-2**: Providing appropriate and visible oversight for the program is a preemptive measure to address concerns about MMS operations. The new Subcommittee recommended above should conduct periodic reviews of the RIK program, both comprehensive and targeted, according to a fixed schedule. These reviews should result in specific recommendations for consideration by the RPC and as appropriate their transmittal to the Department.

RIK Subcommittee Efforts

- ◆ Balanced Membership

 - Jim Steward – Designated Federal Officer (DFO)

 - Dan Riemer (chair) – USOGA

 - Erik Milito – API

 - Mary Ann O'Malley – BP

 - Dave Deal – Public

 - Harold Kemp – Wyoming

 - Patrick Lyons – WSLCA

 - Floyd Phillips – Shoshone/Arapaho Joint Business

 - Akhtar Zaman – The Navajo Nation

- ◆ Finalized Charter on April 24th

- ◆ Met 5 times via teleconference (Mar 25, Apr 22, Jun 2, Jul 23 and Aug 28) with emphasis on market positioning

Subcommittee Issues List

- ◆ Title Transfer
- ◆ Risk of Loss During Delivery
- ◆ Reimbursement Costs and Lessee Controlled Pipelines
- ◆ Reimbursement Costs and Operator Controlled Pipelines

Subcommittee Issues List Cont.

- ◆ Legal Authority for MMS to Take Away from the FMP
- ◆ Information on Producer-Owned Transportation Costs
- ◆ Imbalances
- ◆ Royalty Due on Retrograde
- ◆ MMS Take of Their Allocated Share of Retrograde

Lease Review

In general, for Offshore Gulf of Mexico, there are 3 types of lease agreements that address royalty in production or amount, whether the lessee or lessor has the option of paying in amount or value, and whether the lessee or lessor has the option of where delivery takes place.

1. **Louisiana State Form Leases (Section 6)** state that the lessee shall deliver in volume to the lessor or may, at the lessee's option pay in value.
2. **DOI, BLM, Lease Forms 4-1255 and 3380-1, beginning May 1954 through September 1969**, state that the lessee will pay the lessor in amount or value of production but is silent as to which party makes that determination. When paid in production or amount, deliveries shall be made at the Lessee's option 1.) on or immediately adjacent to the leased area, without cost to Lessor or 2.) at a more convenient point closer to shore or onshore, in which event the Lessee shall be entitled to reimbursement for reasonable cost of transporting the royalty substance to such delivery point.
3. **DOI, BLM/MMS Lease Forms 3380-1, 3300-1, MMS-2005 beginning October 1969 through current**, state that the lessee shall pay...in amount or value of production and the lessor shall determine whether production royalty shall be paid in amount or value. When paid in production or amount deliveries shall be made at the Lessor's option 1.) on or immediately adjacent to the leased area, without cost to Lessor or 2.) at a more convenient point closer to shore or onshore, in which event the Lessee shall be entitled to reimbursement for reasonable cost of transporting the royalty substance to such delivery point. One exception to the above on the MMS-2005, October 1983 version regarding delivery to a more convenient point, this version states that the Lessee may be entitled to reimbursement for reasonable cost of transporting instead of shall.

Payment & Delivery Options

	Payment Option	Delivery Option
Louisiana State Form Leases (Section 6)	Lessee shall deliver in volume to Lessor, or at the lessee's option, pay in value	No provision for alternate delivery.
DOI, BLM, Lease Forms 4-1255 and 3380-1. May 1994 thru September 1969	Lessee will pay lessor in amount or value of production but is silent as to which party makes that determination.	When paid in production, deliveries shall be made at the Lessee's option 1) on or immediately adjacent to the leased area, without cost to Lessor or 2) at a more convenient point closer to shore or onshore, in which event the Lessee shall be entitled to reimbursement for reasonable cost of transporting the royalty substance to such delivery point.
DOI, BLM/MMS Lease Forms 3380-1, 3300-1, MMS-2005. October 1969 through current	Lessee shall pay...in amount or value of production and the lessor shall determine whether production royalty shall be paid in amount or value.	When paid in production, deliveries shall be made at the Lessor's option 1) on or immediately adjacent to the leased area, without cost to Lessor or 2) at a more convenient point closer to shore or onshore, in which event the Lessee shall be entitled to reimbursement for reasonable cost of transporting the royalty substance to such delivery point.

FERC Shipper Must Have Title Rule Prohibited Buy/Sell Transactions

- ◆ FERC Regulation Background - designed to prevent the unauthorized brokering of pipeline capacity.
- ◆ RIK Exchange Agreements - MMS received a one year FERC waiver in order to continue the exchanges through early 2001
- ◆ Current RIK Policy - MMS staff clarified transportation questions with FERC regarding the shipper must have title rule in the fall of 2007.
- ◆ Conclusion - MMS is in compliance with FERC regulations regarding shipper must have title and prohibited buy/sell transactions.

Future Subcommittee Activity

- ◆ Continue addressing items on Issues List.
- ◆ Discuss the merits of creating a “Code of Conduct” to govern situations that are silent, or uncertain or different depending on lease form.
- ◆ Review performance benchmarks.
- ◆ Submit findings and recommendations to the RPC and MRM early in the next Administration.